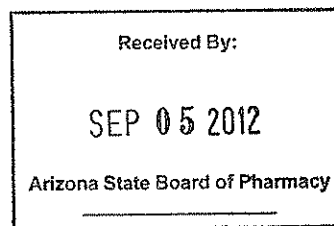


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7 Attorneys for the Arizona State Board of Pharmacy



8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **ROBERT TOBIN,**

12 Holder of License No. S016952
13 As a Pharmacist
In the State of Arizona

Board Case No. 12-0043-PHR

**CONSENT AGREEMENT FOR
PROBATION AND CIVIL PENALTY**

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Robert Tobin ("Respondent"),
18 holder of Pharmacist License Number S016952 in the State of Arizona, and the Board
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
20 ("Consent Agreement") as a final disposition of this matter.

21 **RECITALS**

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
25
26

1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning this matter at which hearing he could present evidence and cross
3 examine witnesses. By entering into this Consent Agreement, Respondent knowingly
4 and voluntarily relinquishes all right to such an administrative hearing, as well as rights
5 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 4115 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

1 document regardless of whether the Consent Agreement has been signed by the
2 Executive Director. Any modification to this original document is ineffective and void
3 unless mutually agreed by the parties in writing.

4 9. This Consent Agreement is subject to the approval of the Board and is
5 effective only when accepted by the Board and signed by the Executive Director. In the
6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
7 be of no evidentiary value and shall not be relied upon nor introduced in any action by
8 any party, except that the parties agree that should the Board reject this Consent
9 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
10 Board was prejudiced by its review and discussion of this document or any records
11 relating thereto.

12 10. If a court of competent jurisdiction rules that any part of this Consent
13 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
14 shall remain in full force and effect.

15 11. Respondent understands that this Consent Agreement is a public record that
16 may be publicly disseminated as a formal action of the Board and may be reported as
17 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
18 Protection Data Bank.

19 12. Respondent understands that any violation of this Consent Agreement
20 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
21 1901.01(B) (20) and A.R.S. § - 1927(A) (1).

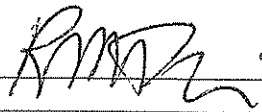
22 13. Respondent agrees that the Board will adopt the following Findings of Fact,
23 Conclusions of Law and Order.

24 ...

25 ...

26 ...

1 ACCEPTED AND AGREED BY RESPONDENT

2 

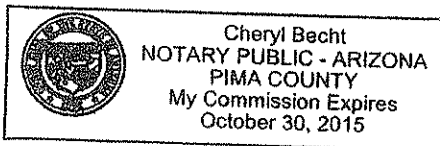
3 Dated:

8/30/12

4 Robert Tobin

5 Subscribed and sworn to before me in the County of Pima, State of ARIZONA
6 this 31 day of August, 2012, by Robert Tobin.

7 
8 NOTARY PUBLIC



10 My Commission expires: OCT 30, 2015

11 FINDINGS OF FACT

12 1. The Board is the duly constituted authority for licensing and regulating the
13 practice of pharmacy in the State of Arizona.

14 2. Respondent is the holder of license number S016952 to practice as a
15 pharmacist in the State of Arizona.

16 3. During all relevant times to these findings, Respondent worked a
17 pharmacist at CVS Pharmacy #9336 (the "Pharmacy") located at 7901 East Golf Links
18 Drive, Tucson, Arizona.

19 4. During January, 2012, CVS personnel were conducting an investigation
20 into Respondent's conduct involving compliance with CVS policies, record keeping and
21 theft of medication at the Pharmacy.

22 5. On January 30, 2012 Respondent was interviewed by CVS personnel and
23 admitted that he had stolen 100 tablets of Phentermine, 2 bottles of Testosterone 200mg
24
25
26

1 #10ml, 1 bottle of Testosterone 100mg #10, 2 tablets of Azithromycin, 6 tablets of
2 Ibuprofen 800 and 1/2 tablet of Methylin 5mg. Phentermine, Testosterone and Methylin
3 are all controlled substances.

4
5 6. Respondent was terminated from his position with the Pharmacy for
6 violating CVS policies regarding drugs and theft.

7 CONCLUSIONS OF LAW

8 1. The Board possesses jurisdiction over the subject matter and over
9 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

10 2. The Board may discipline a pharmacist who has engaged in unprofessional
11 conduct. A.R.S. § 32-1927(A) (1).

12 3. The conduct and circumstances described above constitutes unprofessional
13 conduct pursuant to A.R.S. § 32-1901.01(B) (2) (Violating any federal or state law, rule
14 or regulation relating to the manufacture or distribution of drugs and devices or the
15 practice of pharmacy).

16 4. The conduct and circumstances described above constitutes unprofessional
17 conduct pursuant to A.R.S. § 32-1901.01 (B) (11) (Knowingly dispensing a drug without
18 a valid prescription order as required pursuant to A.R.S. § 32-1968 (A)).

19 ORDER

20 Based upon the above Findings of Fact and Conclusions of Law, the Board issues
21 the following Order:

22 1. Respondent's license will be immediately placed on PROBATION for a
23 period of one (1) year from the effective date of this Order. During the term of
24 PROBATION, Respondent shall complete the following terms and conditions:

1 a. Respondent shall successfully pass the Multistate Pharmacy
2 Jurisprudence Examination.

3 b. Respondent shall pay a civil penalty of \$6,000.00 within 90 days of
4 the effective date of this Order;

5 c. Respondent shall pay all necessary fees and complete all Continuing
6 Education requirements throughout the term of his probation to maintain his
7 Arizona pharmacist license.

8 d. Respondent shall furnish all pharmacy employers with a copy of this
9 Board Order throughout the term of his probation.

10 e. Respondent shall not serve as a preceptor pharmacist or pharmacist
11 in charge throughout the term of his probation.

12 f. Respondent shall advise the Board immediately of any change in
13 pharmacy employment status throughout the term of his probation.

14 g. Respondent shall furnish the Board with a list of all jurisdictions in
15 which he maintains or has maintained licensure in the profession of pharmacy
16 along with the registration numbers of said licenses.

17 h. Respondent shall obey all federal and state laws and rules governing
18 the practice of pharmacy.

19 i. If Respondent violates this order in any way or fails to fulfill the
20 requirements of this order, the Board, after giving the respondent notice and the
21 opportunity to be heard, may revoke, suspend or take other disciplinary actions
22 against the Respondent's license. The issue at such a hearing will be limited
23 solely to whether this order has been violated.

24 j. Respondent shall appear before the Board at a regularly scheduled
25 Board meeting one (1) year after the effective date of this Order to request that the
26

1 probation imposed by this Order be terminated. Respondent's failure to petition
2 the Board to terminate the probation shall extend the probation period.

3 2. Respondent shall pay all costs associated with complying with this Consent
4 Agreement.

5 3. If Respondent violates this Order in any way or fails to fulfill the
6 requirements of this Order, the Board, after giving the Respondent notice and the
7 opportunity to be heard, may revoke, suspend or take other disciplinary actions against
8 Respondent's license. The issue at such a hearing will be limited solely to whether this
9 Order has been violated.

10
11 DATED this 27 day of September 2012

12
13 (Seal)

ARIZONA STATE BOARD OF PHARMACY

14
15 By: 

16 HAL WAND, R.Ph.
Executive Director

17
18 ORIGINAL OF THE FORGOING FILED
this 27 day of Sept., 2012, with:

19 Arizona State Board of Pharmacy
20 1616 W. Adams Street
Phoenix, Arizona 85007

21
22 EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL
23 this 27 day of Sept., 2012, to:

24 Robert Tobin
25 2882 W. Medallion Dr.
Tucson, Arizona 85741
26 Respondent

1 EXECUTED COPY OF THE FOREGOING MAILED
2 this 21 day of Sept, 2012, to:

3 Robert S. Chelle
4 HALL & CHELLE
5 7077 E. Marilyn Road, Suite 140
6 Scottsdale, Arizona 85254
7 Attorneys for Respondent

8 Montgomery Lee
9 Assistant Attorney General
10 1275 W. Washington Street, CIV/LES
11 Phoenix, Arizona 85007
12 Attorney for the Board

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